

**SUMTER COUNTY BOARD OF COMMISSIONERS
EXECUTIVE SUMMARY**

SUBJECT: Cancellation of Agreement with TurnKey Media Group
REQUESTED ACTION: Staff recommends approval

☐ Work Session (Report Only) **DATE OF MEETING:** 9/11/2012
☒ Regular Meeting ☐ Special Meeting

CONTRACT: ☐ N/A Vendor/Entity: Turnkey Media Group
Effective Date: 9/11/2012 Termination Date: 9/1/2012
Managing Division / Dept: Administrative Services/Support Services

BUDGET IMPACT: _____
☒ Annual **FUNDING SOURCE:** _____
☐ Capital **EXPENDITURE ACCOUNT:** _____
☐ N/A

HISTORY/FACTS/ISSUES:

A letter was received on July 30, 2012 from Mr. John Childs, The President of TurnKey Media Group requesting to cancel our current contract for audio services provided for meetings held at The Villages Recreation Centers.

The Villages Entertainment & Special Events offered to provide audio services at The Villages Recreation Centers and offered us a lower rate.

President: John Childs
970 Del Mar Drive
The Villages FL 32159



Phone: 352-751-7911
Fax: 352-751-7990
E-Mail: John.childs@ebdfl.com
www.eventsbydesignfl.com

July 30, 2012

Board of County Commissioners
Sumter County, Florida
7375 Powell Road
Wildwood, Florida 34785



Reference: Contract for Audio Services

Dear Board of County Commissioners,

Per our contract dated and signed on November 9, 2010, we are submitting our cancellation of agreement as of September 1, 2012 to provide audio services to the monthly Board of County Commissioner's meetings and the Zoning and Adjustment Board meetings.

Please call if you have any questions.

Sincerely,

John Childs, President
TurnKey Media Group
407-301-3288

cc: Aimee Webb
Bill Kleinsorge

Copy To:

Commrs _____

Co Atty _____

Co Fin _____

Other _____

Pub Wks Div _____

Bldg & Dev Div _____

Admin Div _____

Com Svcs Div _____

INDEPENDENT CONTRACTOR AGREEMENT
FOR AUDIO AND LIGHTING SERVICES

THIS AGREEMENT (Contract") is made this 14 day of April, 2009, between the Board of County Commissioners of Sumter County, Florida (the "County"), 910 N. Main St., Ste. 201, Bushnell, FL 33513 and Turnkey Media Group, LLC (Independent Contractor).

WHEREAS, Turnkey Media Group, LLC has represented that it is capable of providing audio and lighting services for County Commission Meetings in buildings controlled by the Sumter Landing Community Development District or other facilities in Sumter County.

NOW THEREFORE, the parties agree as follows:

1. County does hereby contract with the Independent Contractor to provide the sound and lighting for County Commission and other government meetings consistent with the Scope of Work attached hereto and incorporated herein as Exhibit "A", as set forth *in haec verba*. The Interlocal Agreement between the Board of County Commissioners of Sumter County and the Sumter Landing Community Development District is attached hereto as Exhibit "B", as set forth *in haec verba*. Independent Contractor acknowledges that the County must abide by the terms of the agreement attached hereto and incorporated herein as Exhibit "B", and that, where applicable, Independent Contractor will perform its duties in a manner consistent with that agreement.
2. The parties accept the above recitals as true and correct, and incorporate them as stated herein.
3. **Commencement and Completion.** The services outlined in Exhibit "A" must be commenced at the Board of County Commissioners meeting at Colony Cottage, the Villages on April 21, 2009. This contract may be terminated by either party upon thirty (30) days written notice.
4. **Contract Sum.** The Independent Contractor shall be paid \$30.50 per hour per technician plus \$100.00 for rental of equipment (the "Contract Sum") for the services contemplated by the Scope of Work attached hereto as Exhibit "A". Hourly rate begins when equipment is picked up from Turnkey Media storage facilities to be delivered to Colony Cottage (or the designated meeting facility) for load in and ends at the conclusion of County Commission meetings, including break down and travel of equipment. Any increase or decrease in the Scope of Work within Exhibit "A" must result in a proportionate increase or decrease in the Contract Sum, which must be agreed to by the parties and set forth in writing. There shall be no increases in the Contract Sum without the written approval of the County. The County will be billed within seven (7) days of the date a bill is received for services rendered.

5. All goods and/or services provided by Independent Contractor shall be performed and/or provided in a good and workmanlike fashion in compliance with any applicable industry standards and any applicable codes and regulations. The County shall work with the Sumter County Sheriff's Department to provide proper security for Contractor's personnel and equipment, but in no event shall more than two (2) deputies be requested for such service, and commonly only one (1) deputy will be requested by the County to provide supervision and security.
6. The Independent Contractor shall maintain any and all proper and applicable County and State licensing.
7. The Independent Contractor shall maintain, on a primary basis and at its sole expense, at all times during the life of this contract, or the performance of work or services governed hereunder, the following insurance coverages, limits, and endorsements described herein. The requirements contained herein, as well as the County's review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Independent Contractor under this contract.
8. **Financial Rating of Insurance Companies** All insurance companies must have financial rating of A- or higher by A.M. Best.
9. **Commercial General Liability** The Independent Contractor shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 Each Occurrence and \$2,000,000 Annual Aggregate. The coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage, Contractual Liability or Cross Liability. The self-insured retention or deductible shall not exceed \$25,000.
10. **Business Automobile Liability** The Independent Contractor shall maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 Each Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event the Independent Contractor does not own automobiles, the Independent Contractor shall maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.
11. **Worker's Compensation Insurance & Employers Liability** The Independent Contractor shall maintain its own Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440. (NOTE: Effective exemptions or coverage through an employee leasing arrangement will NOT satisfy this requirement).
12. **Umbrella or Excess Liability (needed for large contracts as determined by Risk Management)** The Independent Contractor shall maintain either a Commercial Umbrella or Excess Liability at a limit of liability not less than \$2,000,000 Each Occurrence and \$2,000,000 Aggregate. The Independent Contractor shall endorse the County as an "Additional Insured" on the

Umbrella or Excess Liability, unless the Commercial Umbrella/Excess Liability provides coverage on a pure "True Follow-Form" basis, or the County is automatically defined as an Additional Protected Person. Any self-insured retention or deductible shall not exceed \$25,000.

13. Certificate(s) of Insurance shall:

1. Clearly indicate the County has been endorsed on the Commercial General Liability with a CG 2010 Additional Insured – Owners, Lessees, or Contractors, or CG 2026 Additional Insured – Owners, Lessees, or Contractors – Scheduled Person or Organization endorsement, or similar endorsement providing equal or greater Additional Insured coverage.
2. Clearly indicate the County is endorsed as an Additional Insured, or Loss Payee, on the Builder's Risk, and when applicable, Additional Insured on the Commercial Umbrella/Excess Liability as required herein.
3. Clearly identify each policy's limits, flat & percentage deductibles, sub limits, or self-insured retentions, which exceed the amounts or percentages set forth herein.
4. Clearly indicate a minimum thirty (30) day endeavor to notify requirement in the event of cancellation or non-renewal of coverage.
5. Forward original to and clearly indicate Certificate Holder and Additional Insured as follows:

Sumter County Board of County Commissioners
Risk Management Department
Attn: Lita Hart
910 N. Main St. Suite 217
Bushnell, FL 33513

14. Indemnification The Independent Contractor shall indemnify, defend and hold harmless the County, its offices, agents and employees from and against any and all claims, losses or liability, or any portion thereof, including attorney's fees and costs, arising from injury or death to persons, including injuries, sickness, disease or death to Independent contractor's own employees or damage to property occasioned by a negligent act, omission or failure of the Independent Contractor.

15. Builder's Risk (when applicable) The Independent Contractor, prior to notice to proceed or commencement of work, whichever occurs first, shall maintain Builder's Risk Insurance providing coverage to protect the interests of the County, Independent Contractor, subcontractors, including property acquired under a sales tax incentive program, property in transit, and property on or off-premises, which shall become part of the building or project. Coverage shall be written on an All-Risk, Replacement Cost, and Completed Value Form basis in an amount at least equal to 100% of the projected completed value of the Project as well as subsequent modifications of that sum. Any flat deductible(s) shall not exceed \$25,000, any wind percentage deductible (when applicable) shall not exceed ten-

percent (10%); and any flood sub limit shall not be less than 25% of the projected completed value of the project. The Independent Contractor shall endorse the policy with a manuscript endorsement eliminating the automatic termination of coverage in the event the building is occupied in whole or in part, or put to its intended use, or partially accepted by the County. The manuscript endorsement shall amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, the County's interest in the building ceases, or the building is accepted or insured by the County.

The Independent Contractor shall endorse the County as Additional Insured, or Loss Payee, on the Builder's Risk.

16. **Deductibles, Coinsurance Penalties, & Self-Insured Retention** The Independent Contractor shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, self-insured retention, or coverage exclusion or limitation. For deductible amounts that exceed the amounts stated herein that are acceptable to the County, the Independent Contractor shall, when requested by the County, maintain a Commercial Surety Bond in an amount equal to said deductible amount.

17. **Waiver of Subrogation** The Independent Contractor shall provide a Waiver of Subrogation in favor of the County, Independent Contractor, subcontractor, architects, or engineers for each required policy providing coverage during the life of this Contract. When required by the insurer, or should a policy condition not permit the Independent Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then the Independent Contractor shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition specifically prohibiting such an endorsement, or voids coverage should the Independent Contractor enter into such an agreement on a pre-loss basis.

18. **Right to Revise or Reject** The County reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage. Additionally, the County reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein, or any insurer(s) providing coverage due to its poor financial condition or failure to operate legally. In such events, the County shall provide the Independent Contractor written notice of such revision or rejections.

19. **No Representation of Coverage Adequacy** The coverages, limits or endorsements required herein protect the primary interests of the County, and these coverages, limits or endorsements shall in no way be required to be relied upon when assessing the extent or determining appropriate types

and limits of coverage to protect the Independent Contractor against any loss exposures, whether as a result of the Project or otherwise.

20. **Certificate(s) of Insurance.** The Independent Contractor shall provide the County with Certificate(s) of Insurance clearly evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be identified on each Certificate of Insurance. In the event the County is notified that a required insurance coverage will cancel or expire during the period of this Contract, the Independent Contractor agrees to furnish the County prior to the expiration of such insurance, a new Certificate of Insurance evidencing replacement coverage. When notified by the County, the Independent Contractor agrees not to continue work pursuant to this Contract, unless all required insurance remains in effect.

21. The County shall have the right, but not the obligation, of prohibiting the Independent Contractor from entering the Project site until a new Certificate of Insurance is provided to the County evidencing the replacement coverage. The Independent Contractor agrees the County reserves the right to withhold payment to the Independent Contractor until evidence of reinstated or replacement coverage is provided to the County. If the Independent Contractor fails to maintain the insurance as set forth herein, the Independent Contractor agrees the County shall have the right, but not the obligation, to purchase replacement insurance, which the Independent Contractor agrees to reimburse any premiums or expenses incurred by the County.

22. **Governing Law.** All questions, issues or disputes arising out of or under this Contract, shall be governed by the laws of the State of Florida and State jurisdiction is hereby agreed by Independent Contractor to be only in Sumter County, Florida, and Federal jurisdiction is hereby agreed by Independent Contractor to be only in the Middle District of Florida and all Federal litigation by subject matter or removal must be filed and litigated in Tampa, Hillsborough County, Florida. In the event suit is commenced to enforce this Contract, costs of said suit including reasonable attorneys fees in all proceedings, trials, investigations, appearances, appeals and in any bankruptcy proceeding or administrative proceeding shall be paid to the prevailing party by the other party. In the event any litigation is commenced by either party to enforce this Contract, the action will be filed and litigated in a Court of competent jurisdiction located only in Sumter County, Florida. Independent Contractor waives any and all rights to have this action brought in any place other than Sumter County, Florida, under applicable venue laws. Independent Contractor hereby agrees the jurisdiction and venue of all disputes arising out of this Contract lie in no Court other than those stated above.

23. **General.** The invalidity of any provision of this Contract or any covenant herein contained on the part of any party shall not affect the validity of any other provision or covenant hereof or herein contained which shall remain in

full force and effect. Independent Contractor agrees to sign all such documents and do all such things as may be necessary or desirable to completely and effectively carry out the terms and conditions of this Contract. Time shall be of the essence in this Contract. In this agreement, wherefore the singular and masculine are used, they shall be construed as if the plural or the feminine or the neuter had been used, where the context or the party or parties so requires, and the rest of the sentence shall be construed as if the grammatical and the terminological changes thereby rendered necessary had been made. Paragraph headings are provided as an organizational convenience and are not meant to be construed as material provisions of this agreement. Independent Contractor agrees this Contract is consummated and entered into in Sumter County, Florida.

24. **Severability.** Whenever possible each provision and term of this Contract will be interpreted in a manner to be effective and valid but if any provision or term of this Contract is held to be prohibited or invalid, then such provision or term will be ineffective only to the extent of such prohibition or invalidity, without invalidating or affecting in any manner whatsoever the remainder of such provision or term or the remaining provisions or terms of this Contract.
25. **Attorneys' Fees.** If any action is commenced to construe or enforce this Contract or the rights and duties created hereunder, then the party prevailing in the action shall be entitled to recover its costs and fees in the action, the cost and fees incurred in any appeal thereof, and the costs and fees incurred in enforcing any judgment entered as a consequence of an action.
26. Independent Contractor does hereby specifically promise and agree to defend, indemnify and "hold harmless" the County and the agents, servants, employees, officers and officials thereof from any liability or responsibility whatsoever in connection with the goods and/or services to be provided hereunder, except that the County shall reimburse Independent Contractor for any damage to Independent Contractor's equipment directly caused by a County employee or agent, to the extent and limits that such reimbursement is allowed by Florida law.
27. Independent Contractor shall not be construed to be the agent, servant or employee of the County or of any elected or appointed official thereof, for any purpose whatsoever, and further Independent Contractor shall have no express or implied authority of any kind or nature whatsoever, to incur any liability, either in contract or in tort, as the agent, servant, or employee of the Board.
28. The Contract shall be binding upon the parties hereto, their successors and assigns.
29. This Contract shall not be assigned by Independent Contractor without the express written consent of the Board of County Commissioners of Sumter County.

30. Independent Contractor. It is understood that Turnkey Media Group, LLC, including any of its employees or agents, is an independent contractor and not an agent or employee of the County for any purpose including, but not limited to, federal tax and other state and federal law purposes. The Independent Contractor assumes responsibility for payment of all federal, state and local taxes imposed or required of the Independent Contractor under unemployment insurance, Social Security and income tax laws. Independent Contractor shall be solely responsible for any worker's compensation insurance required by law and shall provide the County with proof of insurance upon demand. The parties agree that the County will not:

- (a) Pay dues, licenses or membership fees for Independent Contractor;
- (b) Control the method, manner or means of performing and providing the goods and services within Exhibit "A"; or
- (c) Restrict or prevent Independent Contractor from working for any other party except as specially provided for in non-compete agreements entered into between the parties for independent consideration.

The County does not have the right or power to enter into any contract or commitment on behalf of the Independent Contractor, including entering into agreements with third parties, exercising incidents of ownership with respect to property owned by the Independent Contractor, or executing documents on the Independent Contractor's behalf.

31. Hazardous Materials and Environmental Compliance (as applicable).

For the purpose of this Section, "Hazardous Materials" shall also include but not be limited to substances defined as hazardous substances, hazardous materials, or toxic substances in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, *et seq.*; and in any of the regulations adopted and publications promulgated pursuant to said laws; or any other pollutants or dangerous substances regulated pursuant to any other applicable environmental laws including, without limitation, polychlorinated biphenyls (PCB=s), oil, petroleum products and fractions, vinyl chloride, asbestos, heavy metals, radon or other radioactive materials, flammable or explosive materials, underground storage tanks (whether empty, filled or partially filled with any substance, regulated or otherwise), any substance or materials the presence of which on the Property is prohibited by any environmental laws, or any other substance or material which requires special handling or notification of any federal, state or local governmental entity regarding collection, storage, treatment or disposal. Independent Contractor shall not use, generate, manufacture, store or dispose on, under or about the Property or transport to the Property any (the Hazardous Materials). If Hazardous Materials are discovered during construction, Independent Contractor shall immediately properly

dispose of the Hazardous Substance in accordance with all applicable environmental laws.

32. **Citizenship.** The Independent Contractor shall not employ individuals not licensed or legally permitted to work in the United States of America ("Illegal Aliens"). Independent Contractor shall maintain current Employee Eligibility Verification Forms (I-9 Forms) for all employees of Independent Contractor. County reserves the right to audit Independent Contractor's employee records without cause or notice to verify that all employees of Independent Contractor are licensed or legally permitted to work in the United States of America and are not Illegal Aliens. Should Independent Contractor or County discover that Contractor is employing an individual who is an Illegal Alien as defined herein, that individual shall be immediately discharged by Contractor and shall not be allowed to participate in the work described by this Contract in any manner. It is understood that it is the duty of Contractor to prevent the employment of Illegal Aliens, and the County's right to audit Contractor's employee records does not evidence or suggest a duty on behalf of County to perform such audit or otherwise police the legal status of Independent Contractor's employees.

33. This Contract was executed the day and year first above written.

Conn Webb, Jr.
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS,
SUMTER COUNTY, FLORIDA

Melissa Elliott

Witness:

Garry Breedon

By: GARRY BREEDEN

Title: CHAIRMAN

Keith Inatt

Witness:

TURNKEY MEDIA GROUP, LLC

John D. Chittus

By: JOHN D. CHITTUS

Title: PRESIDENT

Exhibit "A" – Scope of Work

Turnkey Media Group, LLC will provide audio services for Board of County Commissioners meetings at Colony Cottage and at other places determined by the Board of County Commissioners. Services will include providing the required equipment and setting up and breaking down the equipment at the conclusion of the meetings. Additionally, Turnkey Media Group, LLC will monitor the equipment during the meetings to ensure good quality sound for the audience.

FIRST ADDENDUM TO THE AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF SUMTER COUNTY, FLORIDA LOCATED AT 7375 POWELL ROAD, WILDWOOD, FLORIDA 34785 AND TURNKEY MEDIA GROUP, LLC

This is the First Addendum to the Agreement between the Board of County Commissioners of Sumter County, Florida, a political subdivision of the State of Florida, hereinafter referred to as the COUNTY, by and through its Board of County Commissioners, and Turnkey Media Group, LLC, hereinafter referred to as INDEPENDENT CONTRACTOR.

Recitals

WHEREAS, the COUNTY and the INDEPENDENT CONTRACTOR did reach a mutual agreement as to the terms and conditions of such services on April 14, 2009, hereinafter referred to as the ORIGINAL AGREEMENT; and

WHEREAS, the ORIGINAL AGREEMENT requires the INDEPENDENT CONTRACTOR to submit written request to the COUNTY for any increase or decrease relating to the Scope of Work in Exhibit "A"; and

WHEREAS, the INDEPENDENT CONTRACTOR submitted such a request to increase the hourly labor rate from \$30.50 to \$32.50 per hour for audio services performed at Colony Cottage Recreation Center on October 25, 2010; and

WHEREAS, the same Terms and Conditions of the ORIGINAL AGREEMENT apply to this addendum; and

WHEREAS, the ORIGINAL AGREEMENT, Exhibit "A" and the request letter from the INDEPENDENT CONTRACTOR are attached;

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, premises, covenants, and payment hereinafter set forth, incorporating the above recitals as if stated herein and recognizing them as true and correct, and intending to be legally bound, the parties hereby agree the ORIGINAL AGREEMENT between the COUNTY and the INDEPENDENT CONTRACTOR. All other terms and conditions of the ORIGINAL AGREEMENT remain in full force and effect, with the parties agreeing that venue and jurisdiction for any dispute arising from the ORIGINAL AGREEMENT or this First Addendum shall only be in Sumter County, Florida.

IN WITNESS WHEREOF, the parties hereto have made and executed this First Addendum to the Agreement on the respective dates under each signature: COUNTY through its Board of Sumter County Commissioners, signing by and through its Chairman, authorized to execute same by Board of Sumter County Commissioners Action on the 9 day of Nov, 2010 and by CONSULTANT through duly authorized representative.

CONSULTANT

TURNKEY MEDIA GROUP, LLC

BY: JOHN CHILDS (Print)

BY: [Signature] (Signature)

TITLE: PRESIDENT

DATE: 11/15/2010



TEST: [Signature] D.C.
Clerk of the Board of County
Commissioners
Sumter County, Florida

This 9 day of November 2010

Approved as to form and legality:

[Signature]
County Attorney

COUNTY

SUMTER COUNTY, through its
BOARD OF COUNTY
COMMISSIONERS

[Signature]
Doug Gilpin, Chairman

John Childs, President
970 Del Mar Drive
The Villages FL 32159



Phone: 352-751-7911
Fax: 352-751-7990
john.childs@ebdfl.com

October 25, 2010

Board of County Commissioners
910 North Main Street
Bushnell, Florida 33513

Dear Board of County Commissioners;

As per our current contract dated April 14, 2009, Turnkey Media Group, LLC is respectfully requesting an adjustment to our hourly labor rate by two dollars per hour.

On January 1, 2010 our labor rates were increased by Two Dollars per hour for all Turnkey Media Group, LLC clients. This adjustment was to help offset the ever increasing overhead costs. This increase was reflected in your invoicing from us as well. We recognize now we should have followed the County's procedures to request that change. These monies have been returned to you.

We are now formally requesting the labor rate increase from \$30.50 per hour to \$32.50 per hour for audio services performed at Colony Cottage Recreation Center.

Please call me at 407-301-3288 if you have any questions.

Sincerely,

John Childs, President
TurnKey Media Group LLC